

OFFICIAL MINUTES
Carroll County Planning and Zoning Commission

March 18, 2014

Location: Carroll County Office Building

Members Present: Alec Yeo, Chairman
Richard J. Soisson, Vice Chair
Eugene A. Canale
Matthew S. Helminiak
Jeffrey A. Wothers
Cynthia L. Cheatwood
Richard S. Rothschild, Ex-Officio
Daniel E. Hoff, Alternate

Present with the Commission were the following persons: Philip R. Hager and Kelly Martin, Department of Land Use, Planning, and Development; Lynda Eisenberg and Andrea Gerhard, Bureau of Comprehensive Planning; Clay Black, Patrick Varga, Laura Matyas, and John Breeding, Bureau of Development Review; Jay Voight, Zoning Administration; Larry Melfa; Rich DeMario; Scott Miller; William J. Iampieri; George W. Brown; David K. Bowersox; Harold Bernadzikowski; Joe Ucciferro; Dan Wallace; Garnet Bean; Brooks Leahy; Randy Kurtz; Cindy Rill; Drew Baker; John Lemmerman; Jandell Haines; Melvin Baile, Jr.; and Jay Baker.

CALL TO ORDER/WELCOME

Chairman Yeo called the meeting to order at approximately 9:18 a.m.

ESTABLISHMENT OF QUORUM

Kelly Martin took the attendance of the Commission, noting that eight members were present, and there was a quorum.

PLEDGE OF ALLEGIANCE

OPENING REMARKS/ADMINISTRATIVE MATTERS

Philip R. Hager, Secretary, asked that the Commission consider adding a Closed Session for legal advice on potential litigation at the end of the meeting which would require a modification to the agenda.

REVIEW AND APPROVAL OF AGENDA

Chairman Yeo asked for motions to modify the agenda to add the Closed Session at the end of the agenda and to remove 6B, the approval of the March 5, 2014 minutes.

The Commission, on motion of Mr. Helminiak, seconded by Mr. Canale, and unanimously carried, amended the agenda to remove item 6B, approval of the March 5, 2014 minutes, from the agenda.

The Commission, on motion of Mr. Helminiak, seconded by Mr. Wothers, and unanimously carried, added item 19 a Closed Session for legal advice about potential litigation.

The agenda was approved as amended on motion of Mr. Helminiak, seconded by Mr. Wothers, and unanimously carried.

REVIEW AND APPROVAL OF MINUTES

A. February 18, 2014

The minutes of February 18, 2014, were approved as written on motion of Mr. Wothers, seconded by Mr. Helminiak, and carried.

COMMISSION MEMBER REPORTS

- A. Commission Chairman
- B. Ex-Officio Member

A. COMMISSION CHAIRMAN

Chairman Yeo indicated he had nothing to report.

B. EX-OFFICIO MEMBER

Commissioner Rothschild provided a report to the Commission on scientific data to dispute climate change.

DEPARTMENT OF LAND USE, PLANNING & DEVELOPMENT STAFF REPORTS

A. Director

A. DIRECTOR

Philip R. Hager, Director, reported that staff provided comments to the Board of Zoning Appeals (BZA) on one BZA case: BZA Case No. 5746, JMDL Associates, LLC, Joseph Lee and Dan Lee, request for a conditional use and a variance. Specifically, it is for the construction of two pole buildings in association with a contractor's equipment storage yard and variances from the required overall lot sizes and setback requirements on a 7.69 acre property located at 1731 Littlestown Pike, Westminster, within the County's agricultural zone.

Mr. Hager reported that five development extensions had been granted since the last meeting: a fifth one-year extension for the site plan of St. George's Episcopal Church, an 8,665 square foot expansion located on the northwest side of Cape Horn Road in the Manchester area; a second one-year extension for the minor subdivision plan of Leader Heights, two lots located on the north side of Carrollton Road in the Hampstead area; a fourth one-year extension for the minor subdivision plan of Grace Acres, one lot and a remaining portion located in the Manchester area; a fourth one-year extension for the minor subdivision plan of Zepp Acres, one lot and a remaining portion located in the Manchester area; and a second one-year extension for the minor

subdivision plan of Frank's Way, one lot and a remaining portion located on the west side of MD 27, 1,000 feet north of Linzee Drive in the Winfield area.

FY15-20 PRELIMINARY RECOMMENDED CIP – RECOMMENDATIONS TO BOARD OF COMMISSIONERS

Philip R. Hager, Secretary, advised that staff is recommending the Commission move forward with the letter as prepared.

Chairman Yeo read the letter proposed for signature.

It was the consensus of the Commission to direct Chairman Yeo to sign the letter of recommendation to the Board of County Commissioners.

REZONING CASE NO. 222 – DICKENSON RUN PROPERTY (TRACT Z-1) – STAFF REPORT

Andrea Gerhard, Bureau of Comprehensive Planning, explained that the request is to reclassify 2.2025 acres from Residential R-20,000 to Business Neighborhood Retail. The property is located on the north side of Dickenson Road approximately 225 feet east of West Hemlock Avenue with a land use designation of medium density residential in the 2001 Freedom Community Comprehensive Plan. She reviewed several maps with the Commission, including: the rezoning plat, surrounding neighborhood, aerial view, designated land use, and existing land use. Ms. Gerhard read the single agency comment received from Clayton Black, Bureau of Development Review. She reviewed staff findings regarding mistake in current zoning and the change in the character of the neighborhood and read the staff recommendation, which supported the rezoning request based on a finding of mistake.

David Bowersox, attorney for the petitioner, Scott Miller, suggested there is evidence to support a change in the character of the neighborhood. Case law dictates that in order to justify consideration of a rezoning, the applicant must offer substantial change in the character of the neighborhood which was not contemplated by the most recent comprehensive plan. Mr. Bowersox suggested that other rezonings in the area since 2001 have been recognized by the Maryland Court of Appeals as evidence of change in the character of the neighborhood. He explained that the property before the Commission is the remnants of two larger original tracts. Mr. Bowersox suggested that his clients were left with property that is not viable with residential zoning. He explained that the residential development to the north is oriented away from the site. Mr. Bowersox noted that this is the last undeveloped property that was included within the Boulevard District in the 2001 Freedom Plan. The Boulevard District has failed, but it was created to allow for greater flexibility than what would be allowed by the underlying zone. Mr. Bowersox argued that by including this property within the Boulevard District in 2001, the Commission recognized this property was not suitable for R-20,000 development.

There were no public comments.

The Commission, on motion of Mr. Soisson, seconded by Mr. Helminiak, and carried (Commissioner Rothschild abstained), directed staff to forward the rezoning petition to the Board of County Commissioners with a favorable recommendation that because of a mistake in zoning the property be reclassified from "R-20,000" to "B-NR".

FINAL SUBDIVISION PLAN REVIEW

A. F-13-002, Castle Farms

A. F-13-002, CASTLE FARMS

LOCATION: East side of Houcksville Road, Opposite Castle Drive, 8th Election District

OWNER: Houcksville Road, LLC, 407 West Pennsylvania Avenue, Towson, Maryland 21204 (LLC members: Lawrence Melfa, William N. Butler)

DEVELOPER: Same as Owner

SURVEYOR: Development Design Consultants, 192 East Main Street, Westminster, Maryland 21157

ZONING: R-40,000

ACREAGE: 33.24 acres

WATERSHED: Liberty Reservoir

NO. OF LOTS: 27

MASTER PLAN: Residential

PRIORITY

FUNDING AREA: Outside

DESIGNATED

GROWTH AREA: Outside

PUBLIC FACILITIES IMPACTED

SCHOOLS: Hampstead Elementary
Shiloh Middle
North Carroll High

ROADS: Houcksville Road

FIRE & EMS: Hampstead

POLICE: Maryland State Police/Carroll County Sheriff's Office

Laura Matyas presented the background.

Action Required:

One action is required:

1. Approval of the Final Plan of Subdivision pursuant to Chapter 71, Adequate Public Facilities and Concurrency Management, of the Code of Public Local Laws and Ordinances of Carroll County.

A preliminary plan for Castle Farms was approved with conditions by the Planning and Zoning Commission on June 18, 2013. See meeting minutes, attached. Concurrency review at the preliminary plan phase determined that Fire & Emergency Services were approaching inadequate. The final plan of subdivision is before the Planning and Zoning Commission in accordance with Section 71-6D-4b and Section 71-6E-4d.

§ 71-6. Approval process.

D. Preliminary process.

(4) Planning and Zoning Commission adequacy determination.

(b) Conditional approval. If a public facility or service is inadequate and a relief facility is planned in the 6-year CIP to address the inadequacy or mitigation is accepted by the County pursuant to § [71-5B](#), or a public facility or service is approaching inadequate during the current CIP, the Commission may conditionally approve the plan to proceed to the final plan stage and issue a tentative recordation schedule and tentative building permit reservations, subject to modification at the final plan stage.

E. Final process.

(4) Planning and Zoning Commission adequacy determination. *[Amended 02/14/08 by Ord. No. 08-01; 04/01/10 by Ord. No. 2010-04; 04/01/10 by Ord. No. 2010-04; 05/17/11 by Ord. No. 2011-02]*

(d) For projects that received a conditional approval and tentative recordation schedule at the preliminary plan stage, the Commission shall review the facility or service which was inadequate or approaching inadequate at the preliminary plan stage and may modify the recordation schedule and building permit reservations or place the project in a queue, at the discretion of the Commission.

Following a Planning and Zoning Commission determination in accordance with Chapter 71, the plan will be brought before the Chairperson pursuant to Chapter 103.

§ 103-17. Final subdivision plan *[Amended 04/07/09 by Ord. No. 09-01; 05/17/11 by Ord. No. 2011-02]*

D. Approval process. *[Amended 05/17/11 by Ord. No. 2011-02]*

(2) Final plans need not be brought before the Planning Commission for review of compliance with the approved preliminary plan and all other applicable regulations at their regular meeting, unless specifically requested by the Planning Commission. If final plan review is not requested by the Planning Commission, in accordance with this chapter, the Chairperson or the Secretary of the Planning Commission, shall be empowered to approve and sign the final plan upon confirmation from the Bureau that the plan meets all requirements of this chapter and all conditions for approval of such plat have been met or shall disapprove the final subdivision plan or may approve it with conditions with respect to the timing of recordation or building permits. If approval with conditions is the action of the Commission or its designee, a statement

in writing shall be furnished by the Commission or its designee to the developer indicating the provisions with which the development must comply. *[Amended 05/17/11 by Ord. No. 2011-02]*

Existing Conditions:

The subject property is an undeveloped field bordered by the Spruce Meadows subdivision to the south (R-40,000) and across Houcksville Road from Castle Oaks Acres (R-20,000). The site is bordered on the north by more than one hundred acres of undeveloped property (Restricted Industrial) in the Town of Hampstead.

Project Summary:

The developer proposes to create 27 residential lots of approximately one acre in size. Access to the Castle Farms subdivision will be from a new County road, Fortress Court, opposite Castle Farms Drive at Houcksville Road. Requirements for road improvements along Houcksville Road were a condition of approval at the preliminary plan review and incorporated into the final plan. A use-in-common drive off of Fortress Court for access to Lots 24, 26, and 27 was a condition of approval at the preliminary plan review and has been incorporated into the final plan.

CONCURRENCY MANAGEMENT REPORT

Laura Matyas presented the background.

Subdivision Plan: F-13-002, Castle Farms

Number of Lots: 27

Schools: Hampstead Elementary
Shiloh Middle
North Carroll High

Roads: Houcksville Road

Fire and EMS: Hampstead

Police Services: Maryland State Police/Carroll County Sheriff's Office

Background:

On June 18, 2013 the Commission reviewed the preliminary plan pursuant to § 71-6D of the Code of Public Local Laws and Ordinances. The Commission conditionally approved the preliminary plan subject to the following five conditions:

1. Police, schools, and roads are considered adequate.
2. Fire and emergency medical services are considered approaching inadequate.

3. Tentative building permit reservations are for 14 lots in FY 14 and 13 lots in FY 15, provided the plat is recorded prior to any permit being issued.
4. The tentative recordation schedule requires the plat to be recorded within 24 months of preliminary approval.
5. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

§ 71-6E(4d) of the Code of Public Local Laws and Ordinances states the following for final review of projects: “For projects that received a conditional approval and tentative recordation schedule at the preliminary plan stage, the Commission shall review the facility or service which was inadequate or approaching inadequate at the preliminary plan stage and may modify the recordation schedule and building permit reservations or place the project in a queue, at the discretion of the Commission.” In accordance with the Code, the fire and emergency medical services facility was retested. There are no adopted building permits caps in geographic areas impacted by this development.

Threshold Requirements:

Fire and Emergency Medical Services:

The proposed subdivision is located in the Hampstead emergency services district.

The two-year period of February 2012 - January 2014 late and no response statistical data indicates that of the first due total fire calls in the Hampstead district, 4.00% were categorized as no responses, and 7.00% as late and no responses. Services are approaching inadequate if either the total number of late and no responses equals or exceeds 15%, or the total number of no responses equals or exceeds 4% measured on a 24-month basis, updated monthly, but not both. For the purposes of this chapter, Hampstead threshold requirements in measuring fire late and no responses are rated as approaching inadequate.

Of the first due emergency medical service calls in the Hampstead district, 0.00% were categorized as no responses and 0.00% as late and no responses. Hampstead meets adequate late and no response threshold requirements for emergency medical services.

With regard to fire call response time, for the same two-year period, Hampstead had an average response time of 9 minutes and 09 seconds. Services are approaching inadequate when using an average over the previous 24 months, response time is between 8 and 10 minutes from time of dispatch to on-scene arrival with adequate apparatus and personnel. For the purposes of this chapter, Hampstead threshold requirements in measuring fire response time is rated as approaching inadequate.

With regard to emergency medical call response time, Hampstead had an average response time of 6 minutes and 37 seconds – adequate.

All bridges and roads for the most direct route or acceptable secondary route to the project site are adequate to support fire and emergency response apparatus.

Staff Recommendation:

With regard to the final plan, pursuant to Chapter 71 staff recommends that the Planning Commission conditionally approve the final plan with conditions as follows:

1. Fire and emergency medical services are considered approaching inadequate.
2. Building permit reservations are for 14 lots in FY 14 and 13 lots in FY 15;
3. The recordation schedule will require the plan to be recorded within 24 months of preliminary approval;
4. The building permit reservations are allowed to roll over year after year until the sunset provision takes effect and the preliminary plan becomes void.

Discussion:

Matthew Helminiak, Commission member, questioned what had happened to the accel/decel lanes that were agreed to at the last Commission meeting.

Rich DeMario, Development Design Consultants, identified the location of the accel/decel lanes, noting that they were not shown on the drawings provided to the Commission.

Public Comments:

Cindy Rill, Houcksville Road, noted that Leaf Drive is not included in Spruce Meadows, but sandwiched between Spruce Meadows and Castle Farms. She expressed concern with drainage issues.

Mr. DeMario explained that the stormwater management for the development was designed to handle a 110 year storm event and this development would not cause any flooding on Ms. Rill's property.

Ms. Rill asked for clarification that her driveway was not being used for access.

Mr. DeMario indicated Leaf Drive would not be utilized for access to the property.

Ms. Rill stated that she wanted to make sure there was not an issue with the new homeowners and the livestock on her property.

Commissioner Rothschild indicated she would be protected by the Right to Farm Ordinance.

Decision:

Pursuant to Chapter 71, the Commission, on motion of Mr. Helminiak, seconded by Mr. Wothers, and carried (Commissioner Rothschild abstained), conditionally approved the final plan of subdivision for Castle Farms with the four conditions stated in the staff report.

It was the consensus of the Commission that Chairman Yeo would sign off on the plan with regard to Chapter 103 on behalf of the Commission.

CONCEPT SITE PLAN REVIEW

- A. S-13-029, CVS – Eldersburg
- B. S-13-012, Verizon Wireless – Starview
- C. S-14-001, Old Westminster Winery & Vineyard, Amended Site Plan

A. S-13-029, CVS - ELDERSBURG

Jeffrey Wothers, Commission member, recused himself from the discussion due to a potential conflict.

LOCATION: On the west side of MD Rt. 32, north of Bartholow Road, 5th Election District

OWNER: SPJ, Inc., P.O. Box 26, Westminster, MD 21158

DEVELOPER: J. C. Bar Development, LLC, c/o Jason Mitchell, 415 Fallowfield Road, Suite 301, Camp Hill, PA 17011

ENGINEER: Bohler Engineering, 901 Dulaney Valley Road, Suite 801, Towson, MD 21204

ZONING: IR – Industrial Restricted

ACREAGE: 1.695 Acres

FIRE DISTRICT: Sykesville

WATERSHED: Liberty Reservoir

MASTER PLAN: IR – Industrial Restricted – Proposed Boulevard District

PRIORITY

FUNDING AREA: Freedom

DESIGNATED

GROWTH AREA: Freedom

Action Required:

The plan is before the Planning and Zoning Commission per Section 103-19 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. No action is required.

Existing Conditions:

The subject property (Lot 1B) is vacant. A grading only site plan was processed in 2011 allowing for the site to be mass graded. The property to the north (Lot 2B) is the recently constructed Chick-Fil-A Restaurant approved by the Commission in 2013. A funeral home is located to the north of

Chick-Fil-A on Lot 4. All three of these properties are zoned IR and are part of the non-residential subdivision known as Cross Country Plaza. This development was recorded in 1995 and the most recent plat is attached.

The properties to the west are also zoned IR and are light industrial uses. The property to the east, on the opposite side of MD Rt. 32, is the Eldersburg Marketplace Development and is zoned BG. This property was rezoned in 2011 from IR to BG. The property to the south is owned by BGE and contains a substation.

All adjoining properties are served by Freedom public water and public sewer. The County is in the process of designing and installing sidewalk along the east side of Bartholow Road from Liberty High School to the western property line of the subject site.

Site Plan Review:

The developer proposes to construct a one-story, 13,281 square-foot pharmacy with a drive-thru. For a building of this size, 67 parking spaces are required and 67 spaces are proposed. A retaining wall will be installed along the western property line. Sidewalk is shown along the frontage of both MD Rt. 32 and Bartholow Road. A pedestrian connection along the western property line to the building is shown crossing the drive-thru lane. An amended plat will be processed to relocate or remove several easements.

As part of the approval for the Chick-Fil-A site to the north, the Commission required a pedestrian connection from the restaurant to the proposed sidewalk along MD Rt. 32. The Bureau of Development Review has recommended a connection to the building from the sidewalk along MD Rt. 32. Staff requests that the Planning and Zoning Commission provide guidance on this issue.

The land use designation in the 2001 Freedom Community Comprehensive Plan is Industrial Restricted. This property is included as part of the proposed Boulevard District. The Freedom Plan defines properties designated as Industrial Restricted to include “activities involved in light manufacturing, research, processing, warehousing, assembly, and other similar industrial uses.” This proposed commercial use adheres to the intent of the proposed Boulevard District as it would “allow for a mixture of commercial, retail, professional office, and residential uses” as outlined by the Freedom Plan. This proposed use is a conditional use in the IR zoning district. A conditional use request for a drug store was granted by the Board of Zoning Appeals (BZA) in 2006. That decision is attached.

Access to this development will be from the existing entrance on MD Rt. 32 and the existing access point on Bartholow Road. The entrance on MD Rt. 32 currently allows for full movement in and out of the site. There would be no change to this access point as part of this site plan. An access road was constructed through the subject property to connect the Bartholow Road

entrance to the Chick-Fil-A parking lot immediately prior to construction of that business. No road improvements are proposed, but the Bartholow Road entrance will be widened.

Building elevations are shown on Sheet 3 of the plan. The sides of the building which face Bartholow Road and MD Rt. 32 are shown as red and white masonry. The sides facing Chick-Fil-A and the proposed retaining wall are red masonry. The building is 20 feet in height at the highest point. A lighting plan is shown on Sheet 3 and shows eight poles with cutoff fixtures constructed at 20 feet above grade. There is also a large number of building mounted lights located at the entrance, delivery door, and along the sides of the building. A sign detail is shown on Sheet 4. The sign is shown as a monument style sign that is 10 feet in height.

The plan was presented to the Design and Architectural Review Committee in February of 2014. The Committee made the following comments:

1. Consider auxiliary signage at the vehicular entrances at Route 32 and at Bartholow Road to indicate site access.
2. Ivy is not a permitted plant per the landscape manual.
3. The retaining wall is awfully close to the western property line in places and will likely require pilings because there won't be enough room to install reinforcement grid. Is the sidewalk connection to Bartholow a required point of ADA access? Can this sidewalk be eliminated in order to shift the wall off the western property line and get some more room for the grid?
4. With the proximity to Liberty High School and continuous sidewalk between the school and the site, bicycle parking on site is advisable.
5. In general, the plan is very busy and difficult to ascertain the intent of the landscape design.

Stormwater Management will be addressed using underground infiltration trenches. There are no areas of floodplain on the property. Forest Conservation was previously addressed off-site. Landscaping is required inside of parking islands, as well as between the parking areas and MD Rt. 32 and Bartholow Road.

The proposed site plan was subject to Citizen's Involvement during the February 24, 2014 Technical Review Committee meeting. No citizens attended the meeting and no phone calls have been received regarding this site plan.

Discussion:

There was a brief discussion regarding the provision of ADA accessibility to the store from the sidewalk as the Commission required with the Chick-fil-a site. Joseph Ucciferro, Bohler Engineering, explained that the topography in this location would require a wraparound ramp if accessibility was required from the MD 32 sidewalk. He suggested that since there is an access at the Chick-fil-a site, that the CVS access be provided near the retaining wall along the other road frontage. Mr. Ucciferro noted that signage for the site is proposed as similar to the Chick-fil-a signage, so there is consistency.

Chairman Yeo raised concern regarding the size of the building for the site, questioning whether it is a “preset” building or modifications could be made.

Dan Wallace, representing CVS, explained that the prototype for this site is the smallest prototype that CVS currently constructs. He noted that the project meets parking, setback, and landscaping requirements.

Chairman Yeo noted that the plans are very difficult to read with all the layers of information on one page. He questioned the traffic flow through the site.

Mr. Ucciferro apologized for the plans being too “busy”. He noted that he would break down the grading and landscaping onto other drawings for the next submittal. Mr. Ucciferro explained that the traffic studies show that most of the traffic will exit onto MD32. The access drive was designed to align between the Chick-fil-a and CVS sites.

Chairman Yeo questioned the advisability of constructing ADA access that crosses paths with traffic in two locations within 25 feet.

Mr. Ucciferro explained that the developer is required to provide one ADA access point to the site. Steps could be provided from the sidewalk along MD32, but another access would be necessary.

Chairman Yeo noted that the elevation facing Chick-fil-a is very visible and requested that it be “dressed up” like the elevations facing MD32 and Bartholow.

Mr. Wallace indicated he would look into it.

Chairman Yeo questioned the visibility of the roof mounted equipment.

Mr. Wallace explained that rooftop equipment would not be visible because of a parapet wall.

Mr. Varga suggested that the other parapet wall be extended to the elevation facing Chick-fil-a.

Chairman Yeo mentioned DARC’s comments, noting that there is not much that can be done regarding the west elevation because the footprint of the building is what it is. He questioned whether the walls could be angled like the drive-thru wall to make them further away from the retaining wall. Mr. Yeo questioned whether the Commission would consider trading one parking space for bicycle parking.

Philip R. Hager, Secretary, noted that Clay Black, Bureau of Development Review, had developed a committee to study parking standards. Bicycle components were not included in the original scope, but they will be asked to review them as well.

Chairman Yeo suggested that directional signs and a “drive-thru only” sign be added to the site.

B. S-13-012, VERIZON WIRELESS - STARVIEW

LOCATION: On the north side of Deer Park Road, east of Don Avenue, 4th Election District

OWNER: Kibler Development, LLC, 3332 Baltimore Boulevard, Finksburg, MD 21048 (LLC Members: To be provided)

DEVELOPER: Verizon Wireless c/o Network Building & Consulting, c/o Harold Bernadzikowski, 7380 Coca Cola Drive, Suite 106, Hanover, MD 21076

ENGINEER: Morris & Ritchie Associates, Inc., 1220-C East Joppa Road, Suite 505, Towson, MD 21286

ZONING: A – Agriculture

ACREAGE: 66.58 Acres

FIRE DISTRICT: Reese

WATERSHED: Liberty Reservoir

MASTER PLAN: Agriculture

PRIORITY
FUNDING AREA: Outside

DESIGNATED
GROWTH AREA: Outside

Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 103-19 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. No action is required.

Existing Conditions:

The subject property is unimproved. The property is approximately half forest and half field. A pond of about a half-acre in size is located on the eastern portion of the property. All adjoining properties to the south are zoned Agriculture and are improved with single-family homes. Properties to the north and northeast are zoned Agriculture and are unimproved. To the northwest are single-family homes on lots zoned R-40,000 and to the east is a single-family home on a property zoned Agriculture. The property to the west appears to be a greenhouse and is zoned Agriculture. All adjoining properties are served by private wells and private septic systems.

Site Plan Review:

In accordance with § 223-15 of the Carroll County Code of Public Local Laws and Ordinances, communications towers are permitted as a conditional use in the A District and in the C District subject to the following:

- (a) A minimum setback of a distance equaling the height of the tower. The setback shall be measured from the base of the tower to the boundary line of the property owned, leased, or controlled by easement by the applicant.
- (b) Subject to a minimum distance requirement of a distance equaling the height of the tower plus 200 feet from all R Districts, the H District, and the MHP District or the nearest part of any existing dwelling, school, religious establishment, or institution for human care, in any other district. *[Amended 04/07/09 by Ord. No. 09-02]*
- (c) Subject to a minimum setback from all overhead transmission lines of a distance equaling 2 times the height of the tower and all masts.
- (d) Subject to site plan approval by the Planning and Zoning Commission pursuant to [§ 103-19](#).

The Board of Zoning Appeals approved (Case #5722) a 190-foot-high tower at the location as shown on the site development plan. Attached is a copy of the decision.

The developer proposes to construct a 190-foot-high cellular communications monopole tower inside a 50' x 50' compound. The site will be unmanned and will be infrequently visited for routine maintenance. The compound location is in the wooded portion of the site to reduce visibility to the compound itself. This area will be leased by Verizon Wireless. Antennas for Verizon Wireless will be mounted at the top of the tower and will extend up to a height of 194 feet above grade. The 190' tower height allows three other future carriers to be mounted on the tower. This will allow for the colocation of communication equipment as required by the County Code. The proposed use is consistent with the designation of Agriculture in the 2000 Carroll County Master Plan.

Access to the compound is shown over a portion of a recorded right-of-way through the property. The right-of-way deed states that the owner (Kibler Development LLC) has the right to develop the property with the use of the right-of-way subject to the requirement that all costs are the burden of Kibler Development, LLC and not any other user on the driveway.

In accordance with § 103-25 of the Code of Public Local Laws and Ordinances, access drives which connect to roads shall be a minimum of 18 feet wide. Staff has indicated that the drive will need to meet this width requirement; however, due to the limited number of vehicles that will access the site once the tower is constructed, the developer has indicated they will request a variance to the 18-foot width requirement (this variance request is heard by the Zoning Administrator).

The existing driveway entrance onto Deer Park Road does not meet County sight distance requirements; however, due to the limited number of vehicles that will access the site once the tower is constructed, the developer intends to pursue a variance through the Department of Public Works.

Based on the initial submission, the plan is exempt from the requirements of the Forest Conservation Ordinance and Stormwater Management Ordinance. An eight-foot-high chain-link

fence will be constructed to enclose the compound area. Barbed wire will be placed at a height of one foot above the top of the fence. Sheet 2 shows the details for the fence.

The proposed site plan was subject to Citizen's Involvement during the February 24, 2014 Technical Review Committee meeting. One citizen spoke at the meeting with regard to installing a fence at an adequate height to keep people and animals out and that the structure should be strong enough to withstand ice accumulation. No phone calls have been received regarding this site plan.

The property is not subject to the provisions of Concurrency Management, Chapter 71 of the Code of Public Local Laws and Ordinances of Carroll County; however, the project will be tested for Adequate Public Facilities before the site plan is presented to the Planning Commission for approval.

Discussion:

Harold Bernadzikowski, consultant to Verizon Wireless, indicated that the developer had filed a driveway width variance request since access to the site would be on a very limited basis.

Daniel Hoff, Commission member, questioned the reason for the tower being positioned in this particular location on the site. He suggested moving the tower further north would move it away from the properties on Deer Park Road.

Mr. Bernadzikowski noted that as you move further north on the site, the property goes downhill. He indicated that the entire area is forested.

C. S-14-001, OLD WESTMINSTER WINERY & VINEYARD, AMENDED SITE PLAN

LOCATION: West side of Old Westminster Road, north of Warfieldsburg Road, E.D. 7.

OWNER: Jay & Virginia Baker, 1550 Old Westminster Road, Westminster, MD 21157

DEVELOPER: Same as Owner

ENGINEER: RTF Associates, 142 East Main Street, Westminster, MD 21157

ZONING: Agriculture (AG)

ACREAGE: 16.99 Acres

FIRE DISTRICT: Westminster

WATERSHED: Liberty Reservoir

MASTER PLAN: Agriculture

PRIORITY

FUNDING AREA: Outside

DESIGNATED

GROWTH AREA: Outside

Patrick Varga presented the background.

Action Required:

The plan is before the Planning and Zoning Commission per Section 103.19 of the Code of Public Local Laws and Ordinances of Carroll County for consideration of a concept site plan. No action is required.

Existing Conditions:

The subject property is improved with a single-family home that was built in 2000. An agricultural building was constructed on the property in 2011. This building has been used as the retail and tasting facility for the winery over the last three years.

The property is a remaining portion from the two-lot Magna Terra Vista subdivision, which was recorded in 2005. The house is accessed from an existing driveway on Old Westminster Road. This portion of Old Westminster Road is gravel and there are no current plans to improve or pave the road. There is a stream that traverses the southern end of the property with an existing bridge over the stream. The majority of the property has been planted as a vineyard. There is also an existing right-of-way along the northeastern property line that provides access to another parcel to the north of the subject property.

The surrounding properties on the east side of Old Westminster Road are zoned R-40,000 and are improved with single-family homes. All adjoining properties on the west side of Old Westminster Road are zoned Agriculture. The properties that are accessed from Old Westminster Road are improved with single-family homes, while the large farm property to the west is accessed from Woodlands Circle. The subject property and all adjoining properties are served by private wells and private septic systems.

A site plan for a winery was submitted for review in 2010. At that time, the developer proposed a 1,500 square-foot building in the northwest corner of the property. This project was presented to the Board of Zoning Appeals twice. On December 19, 2009, the applicant received setback variances and a conditional use approval. A concept site plan was submitted for review in July of 2010. The layout that was submitted for review was different from the layout that was presented during the conditional use hearing. The retail building was moved from the north side of the applicant's house to the south side of the stream. As such, the applicant submitted another conditional use and setback variance request, which was granted on November 30, 2010. A site plan for a winery with a retail and wine-tasting building was approved by the Planning and Zoning Commission on May 17, 2011.

Site Plan Review:

Instead of the 1,500 square-foot building approved in 2011, the developer proposes to construct a one-story, 2,204-square-foot building for a retail winery and storage space. The building will be

split into 1,748 square feet for the retail use and 456 square feet for storage space. The building location is 100 feet south and 25 feet east of the location approved in May of 2011. The developer has been advised that he must contact the Board of Zoning Appeals to confirm that the distance variances and conditional use are still valid for this project since the building location has shifted. This use is consistent with the land use designation of Agriculture in the Carroll County Master Plan.

The development will be accessed by a new gravel driveway located north of the bend in Old Westminster Road. The developer received a variance from the Zoning Administrator from the required 18-foot driveway to a 12-foot driveway. The 390 feet of required sight distance at this location has been verified. The parking pad is approximately 410 feet from the edge of the public road and is approximately 150 feet behind the location approved in 2011. There are 10 parking spaces shown on the plan and nine spaces are required. Of the 10 spaces, one space is an accessible space and will be located on a concrete pad. The Bureau of Development Review has recommended adding additional parking spaces to accommodate the well-attended events put on by the owner.

A four-foot wide, concrete path will direct customers from the parking area to the winery building. The bridge over the stream is constructed of pressure treated decking on top of five steel beams. The bridge will be evaluated by a structural engineer to confirm that the bridge will allow emergency service vehicles to cross it. The path must also comply with accessibility requirements.

An existing well and septic system for the residence will not change as part of this plan. A second well on the south side of the stream will be drilled for the winery. A second septic system will be installed on the north side of the stream and a pump system will carry waste from the retail building to the septic system.

The proposed building is shown as an approximately 30-foot high structure. The elevations on Sheet 3 show a building that is made of gray barn board. The roof is shown as a dark green, metal roof. There are entrances on three sides of the building. A stone knee wall is shown around all four sides of the building. A canopy is shown over the main entrance on the front of the building. There are no lights proposed for the building. Sign details are provided on Sheet 1. The sign is shown as a wooden, one-foot-high by two-foot, nine-inch-wide sign to be mounted to a fence post.

Stormwater Management is addressed with the use of a drywell for the proposed building. This project is exempt from the requirements of Forest Conservation because the disturbance is less than 40,000 square feet. An exemption request for the requirements of Landscaping was granted by the Director of Planning on September 8, 2010 because of the agricultural nature of the development. There are no requirements for Floodplain on this property. An exemption for the requirements of Water Resources was granted by the Acting Director of the Department of Land Use, Planning, & Development on March 28, 2011. As stated in the exemption, "the current site plan layout avoids unnecessary impacts to the resource and does not create an environmental degraded condition." Review agencies have confirmed that these variances are valid for the current plan.

The proposed site plan was subject to Citizen's Involvement. A Public meeting was held on February 24, 2014 during regularly scheduled meetings of the Technical Review Committee

(TRC). There were no citizens present for this plan. This office received one phone call regarding this project. That neighbor expressed concerns regarding the amount of visitors to the site and drainage problems along the road. The drainage issues are not caused by the subject property owner nor this development and are an existing issue.

Discussion:

Drew Baker, representative of the owner, addressed staff's comments regarding parking. He noted that his family is trying to create a venue that has an agricultural ambiance. Mr. Baker explained that the winery is located on a farm and small lanes with grassy well drained hillsides provide an opportunity for additional parking. He noted that the lot is sized for normal business with overflow parking necessary only for events on a few weekends a year.

Eugene Canale, Commission member, questioned why this structure was being located away from the barn and residence.

Mr. Drew Baker explained that this location allows for some separation from the residence.

Daniel E. Hoff, Commission member, questioned how much additional parking staff would recommend.

Mr. Varga suggested 20-25 parking spaces would accommodate larger groups and keep people from having to park in the mud.

Mr. Hoff suggested the parking to the right be mirrored on the left, which would provide an extra 9 spaces.

Mr. Drew Baker noted that the family and workers would no longer utilize parking spaces as they will continue to park at the residence and walk.

Richard Soisson, Commission member, indicated he did not have a problem with the winery's plan for overflow parking. He did suggest that if people were going to be taken from the winery to the existing barn, a walkway should be installed.

Chairman Yeo questioned how many times a year there would be more than 25 people at one time.

Jay Baker, owner, indicated it happened two to three times last year and once was the grand opening.

Commissioner Rothschild suggested that the driveway be widened to provide extra parking along the length.

Mr. Drew Baker explained that the parking was placed in the proposed location to provide shielding from Old Westminster Road.

Mr. Hoff noted that additional parking could be added in the future.

John Lemmerman, RTF Associates, indicated additional parking is always an option for the future and the topography of the site would support it.

Mr. Varga noted that this is an amended site plan without many comments for change. He questioned whether the Commission wished to delegate approval authority to the Chairman.

It was the consensus of the Commission that the Chairman be granted approval authority for the final site plan.

Public Comments:

Jandell Haines, Old Westminster Road, indicated that she lives across the road from the winery. She expressed concerns regarding the existing drainage problems on the road, suggesting that adding a driveway will make the water situation worse. Ms. Haines noted her appreciation for the parking being located in the back of the site. She expressed concern regarding chemicals leaking into the ground from the vehicles parked in the grass and the possibility of fire from hot catalytic converters.

Mr. Lemmerman noted that drainage issues were addressed when the driveway entrance was laid out. Staff worked with the engineer to ensure that none of the drainage from this property would contribute to issues on Ms. Haines' property.

Chairman Yeo suggested that a member of the staff meet with Ms. Haines to assist her in identifying the appropriate agency to work with her to address the drainage issues in the area.

Jay Voight, Zoning Administrator, noted that wine tasting events which is what the Baker's currently have approval for from the Board of Zoning Appeals (BZA) are not limited to the number of people. There is a pending BZA case for the approval of a country inn and banquet. The BZA would address the number of people in their approval.

EXTENSION REQUESTS – POTENTIAL TEXT AMENDMENT

Philip R. Hager, Secretary, noted that the Commission had previously discussed the issue of extension requests. Staff has been advised by counsel to proceed with this as a Code amendment. Mr. Hager reviewed the proposed Code change to §103-16 (4) (a) adding the words: "no more than three (3)" to the second line after the words "plat for".

Commissioner Rothschild questioned why this change was being made.

Mr. Hager explained that the Commission has discussed this issue over the last several months and had requested the change. He noted that the concept was originally included in a previous Economic Relief Package. Mr. Hager explained that language in §103-16 (4) (b) would be removed because this would not be an appealable process since it is a timeframe and not a discretionary decision. At the conclusion of the time period, the applicant could move forward with construction or come before the full Commission for an extension.

Matthew Helminiak, Commission member, suggested that section headings (a) and (b) could be removed along with the Appeals paragraph. The first sentence of (b) could be added to the end of paragraph (a).

The Commission discussed several scenarios regarding how development projects that have already been granted extensions would be handled based on this Code change. They also discussed the appeal process.

Mr. Hager offered to review the proposal with local attorneys that are frequently before the Commission.

Clay Black, Bureau of Development Review, noted that the regularly scheduled Surveyors Meeting was tomorrow, and he could review the proposal and request comments from that group.

It was the consensus of the Commission to direct staff to gather additional information for review at a future meeting.

POTENTIAL SOLAR FARMS LEGISLATION

Philip R. Hager, Secretary, noted that the Board of County Commissioners declined to take action on the legislative package that was previously forwarded by the Commission regarding solar farms. The Board has continued to reiterate their interest in legislation. Mr. Hager distributed proposed language to the Commission for review. He noted that the difficulty is determining whether this use is appropriate in agricultural settings.

The Commission questioned how many panels or how much square footage would be required for a typical 3,000 square foot house.

George Brown, owner of a commercial solar farm in Howard County, distributed information for the Commission's review. He suggested that approximately two to three panels 4 X 8 or 4 X 10 would be necessary. He noted that solar farms are not likely to appear all over Carroll County and must receive permission from the Public Service Commission. The size and capacity of the power lines serving the particular area is a consideration as bringing the power lines to a solar farm costs approximately \$1 million per mile. Mr. Brown explained that Howard County has strict landscaping and screening requirements, as well as setback regulations.

Commissioner Rothschild reviewed a slide presentation showing photographs of different solar arrays. He suggested treating them like other power generating plants and using caution when deciding whether they are allowed in agricultural areas.

Melvin Baile, Environmental Advisory Council member, suggested that the importance is in the definitions. There is commercial generation and supplemental generation. He questioned where you come up with how much supplemental energy can be generated. Mr. Baile noted that there are Rural Legacy easements, Maryland Agricultural Land Preservation Foundation easements, and County held easements. The regulations could be different in all of these areas. He suggested there are a lot of site specific issues that need to be addressed regarding landscaping, screening, etc.

Mr. Hager noted that Tay Harris researched surrounding jurisdictions as to how these facilities are handled. He questioned whether the Commission was comfortable with them as an accessory use or whether they should go before the Board of Zoning Appeals (BZA) for approval.

After discussion, it was the consensus of the Commission to recommend that large scale conversion facilities would be allowed in the “I-G” and “I-R” districts as a principle permitted use.

Chairman Yeo questioned the major opposition to the language at the Board level.

Commissioner Rothschild indicated that the Board was split. He suggested that there was no reason for the Commission not to move forward with solar arrays as principle permitted uses in the “I-G” and I-R” districts. The residential and agricultural districts are the areas of disparity.

The Commission discussed usage in the “B-G” district.

Mr. Hager reviewed the discussion noting that it was the consensus of the Commission that staff move forward with language to allow facilities in the “I-R”, “I-G”, and “B-G” districts. He indicated the required language would be prepared for review at the April 2 meeting.

MASTER PLAN: DISCUSSION

Philip R. Hager, Secretary, noted that the Planning Commission meeting was cancelled last week because some of the information was determined to be proprietary. He noted that he and Lynda Eisenberg, the Chairman, and the Vice Chair had met with Economic Development staff to discuss factors they utilized to come up with the proposed sites.

Ms. Eisenberg reviewed a chart detailing the existing land use for the portions of the County covered by the Master Plan—233,000 acres. She explained that the proposed additional commercial, industrial, and employment campus adds 142 acres of commercial, 669 acres of industrial, and 1,006 of employment campus for a total of 1,817 acres. Ms. Eisenberg reviewed seven map clusters showing the properties proposed for change. Staff was directed to provide aerial photographs for the properties for the continued discussion on April 2.

PUBLIC COMMENTS

There were no public comments.

CLOSED SESSION TO CONSULT WITH STAFF, CONSULTANTS, OR OTHERS ABOUT PENDING OR POTENTIAL LITIGATION

Pursuant to State Government Article, Section 10-508(a)(8), Mr. Helminiak made a motion, seconded by Mr. Wothers, and unanimously carried, to close the meeting for the purpose of consulting with staff, consultants, or others about pending or potential litigation. As part of this motion, the Commission noted that following the Closed Session, the Commission’s meeting would adjourn. Mr. Soisson, Mr. Wothers, Ms. Cheatwood, Mr. Helminiak, Mr. Canale, and Commissioner Rothschild voted “Aye” on the motion to close; Mr. Yeo, sitting as Chair, did not vote; Mr. Hoff, Alternate, did not vote. The Commission entered into closed session in Room 037 at approximately 3:40 p.m.

Following the Closed Session, the Commission adjourned at approximately 4:20 p.m.

Secretary

Approved